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PTO/SB/21 (02-04)

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**TRANSMITTAL
FORM**

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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/027,394	
	Filing Date	12/21/2001	
	First Named Inventor	Bruce G. Kania	
	Art Unit	3743	
	Examiner Name	Kim M. Lewis	
Total Number of Pages in This Submission	3	Attorney Docket Number	

ENCLOSURES (Check all that apply)

<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):
<div>Remarks Provisional Election</div> <div>RECEIVED JUL 15 2004 TECHNOLOGY CENTER R3700</div>		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Antoinette M. Tease, P.L.L.C.
Signature	
Date	07/08/2004

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Signature		Date 07/08/2004

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/027,394
Filing Date: 12/21/2001
Applicant: Bruce G. Kania
Title: Treatment Devices Providing Targeted Antimicrobial Action
Examiner/GAU: Kim M. Lewis/3743

PROVISIONAL ELECTION

RECEIVED

The Honorable Commissioner for Patents
Washington, District of Columbia 20231

JUL 15 2004
TECHNOLOGY CENTER R3700

Dear Sir:

In response to the Official Action mailed June 14, 2004, Applicant provisionally elects, with traverse, Group I, Claims 1-27 for further reexamination on the merits in the present application.


Applicant respectfully traverses the restriction requirement because the PTO has not carried forward its burden of proof to establish distinctness. In particular, MPEP § 803 states:

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

The claims of the present invention would appear to be part of an overlapping search area.

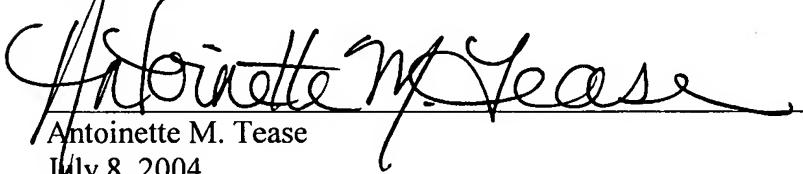
Accordingly, Applicant respectfully traverses the outstanding election requirement on the grounds that a search and examination of the entire application would not place a *serious* burden on the examiner.

Respectfully submitted,



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Antoinette M. Tease
July 8, 2004